



U.S. Department of Justice

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December 12, 2022

Via ECF

Chambers of Hon. Vincent F. Papalia
Martin Luther King, Jr. Federal Building
50 Walnut Street
Newark, NJ 07102

Re: *In re Supportive Health LLC*, 21-15113-VFP (Bankr. D.N.J.)

Chambers of Judge Papalia:

This office is in receipt of the Motion of Caroline Bolivar to Stay Bankruptcy Proceedings and Compel Sole Creditor City of Milwaukee to Accept Payment of its Proof of Claim and Dismiss IRS Proof of Claim [ECF Doc. No. 227] (the "Motion") filed in the above referenced case on November 29, 2022.

Among other relief sought by the Motion, Ms. Bolivar seeks an order expunging the proof of claim filed by the United States Internal Revenue Service (the "Service"). The purpose of this letter is to set forth the Service's position that the relief sought against it should not be considered at the December 15, 2022, hearing date because Ms. Bolivar failed to properly serve and notice the Motion.

The request to expunge the Service's proof of claim is governed by Federal Rule of Bankruptcy Procedure 3007, which, among other things, requires 30-day's notice and service in the manner provided under Rule 7004. Fed. R. Bankr. P. 3007(a)(1)-(2)(A)(i). Ms. Bolivar has neither filed a motion to shorten the 30-day notice period required under Rule 3007(a)(1) nor has she served the Motion on the Service in the manner required by Rules 3007(a)(2)(A)(i) and 7004(b)(4)-(5). See Movant's Certificate of Service [ECF Doc. No. 230].

In addition to failing to comply with the general notice and service requirements of the Federal Rules of Bankruptcy Procedure, Ms. Bolivar has failed to comply with the Court's instructions on personally serving undersigned counsel. Specifically, on December 1, 2022, the Court instructed Ms. Bolivar to serve undersigned counsel by "overnight mail" so that undersigned counsel would receive a copy of the Motion on December 2, 2022. *See* Notice of Hearing [ECF Doc. No. 228]. As indicated by the envelope received by undersigned counsel, Ms. Bolivar waited until several days *after* December 1, 2022, to mail the Motion to undersigned counsel. As a result, undersigned counsel did not personally receive the Motion until the morning of December 8, 2022, after it was delivered to the Newark Federal Building on the afternoon of December 6, 2022. *See* https://tools.usps.com/go/TrackConfirmAction?qt_c_tLabels1=9405503699300411353329

Based on the forgoing, the Service objects to the Motion going forward on December 15, 2022, with respect to the request to expunge the Service's proof of claim.

In the interim, the Service is willing to review and consider whether Ms. Bolivar is entitled to the relief requested in the Motion. The Motion, however, lacks sufficient information and documentation for the Service to even evaluate Ms. Bolivar's position. As a result, the Service is requesting that Ms. Bolivar either supplement the Motion or that she provide the following information and documentation directly to the Service:

- (1) Ms. Bolivar's personal Form 1040 federal income tax returns for tax years **2015 through 2020** showing that she claimed the Debtor's income on her individual tax returns;
- (2) Any and all Form 1065 federal tax returns filed by the Debtor between **2015 and 2020**; and
- (3) Documentation evidencing Ms. Bolivar's assertion negotiations between the Debtor and IRS resulted in "the elimination of penalties for failure to file" tax returns by the Debtor.

Because the Service cannot substantively respond to the Motion until such information is provided, the Service requests that the hearing on the Motion be

adjourned to a date that is 14-days after Ms. Bolivar provides the foregoing supplemental information to the Service.

To the extent Ms. Bolivar provides documentation supporting the relief she is requesting, the Service may potentially amend or withdraw its proof of claim without the need for a hearing on the Motion.

Thank you for your attention to this matter.

Sincerely,

PHILIP R. SELLINGER
United States Attorney

By: s/ Eamonn O'Hagan
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